

## **REMARKS**

### **Overview**

Claims 1, 3-16 and 18-89 are pending in the present application. The claims have been finally rejected. The sole rejection based on prior art is for obviousness.

This response is accompanied by a Request for Continued Examiner (RCE) to place the claims in form for allowance. Entry and reconsideration is respectfully requested.

### **35 U.S.C. § 112 Rejection**

Claim 54 has been amended to eliminate any antecedent basis issue.

### **35 U.S.C. § 103 Rejections**

Claims 1-16, 18, 19, 21, 31-50, and 52-54 stand rejected under 35 U.S.C. § 103 as obvious in view of Gordin, U. S. Patent No. 6,340,790 ("Gordin") in view of Kozikowski, U. S. Patent No. 4,543,764 ("Kozikowski"). This rejection is respectfully traversed.

These references have been previously discussed. The discussions from prior responses are incorporated by reference herein.

Gordin does not disclose, teach, or suggest an independent plastic covering layer in conforming relationship over a pole to protect the exterior of the pole. It does teach multi-section poles having adjacent ends of sections slip-fittable over one another to assemble the pole.

Kozikowski does disclose a sheet material that is positioned around a section of a pole. The purpose of the sheet material, however, is essentially a form into which can be injected epoxy or some other structural strengthening or repair substance to repair a section of the pole.

The combination of Gordin and Kozikowski do not present a *prima facie* case of obviousness. There is no teaching or suggestion of Applicant's independent claims even if the

teachings of Gordin and Kozikowski are combined. There is no combined teaching of placement of a covering layer of plastic material in conforming relationship over substantially all the pole. Kozikowski is only intended to repair a section of the pole and has no thin layer of plastic material placeable over the exterior of the pole. The claims have been amended to uniformly define the combination of the pole of certain characteristics with the independent thin plastic covering over the pole.

The prior art references that do not recognize the problem solved by the invention supports a conclusion of non-obviousness:

"The discovery of a problem calling for an improvement is often a very essential element in an invention correcting such a problem. Though the problem, once realized, may be solved by use of old known elements, this does not necessarily negate patentability." *In re Bisley*, 197 F.2d 355, 94 U.S.P.Q. 80, 86 (C.C.P.A. 1952).

Applicant's specification discloses the problem addressed by the present invention. Conventional poles elevating sports lighting are well-known. They provide structural support for the items they elevate. Normally, the material for the pole is selected to try to be durable over a reasonable period of time. However, as described in Applicant's specification, there are reasons why it could be advantageous to modify the exterior of the pole. One is to add protection against things that would try to degrade the pole. Another could be to change the exterior of the pole. In any event, the presently claimed invention came out of a search for a practical solution to the issue. The claimed solution involves taking an independent thin plastic cover and conform it around the exterior of the pole. It has no structural function.

It is respectfully submitted that the only teaching of the claim combination of the present application is through use of hindsight gained by Applicant's specification and claims:

"When prior-art references require a selective combination to render obvious or subsequent, there must be some reason for the combination other than the hindsight gleamed from the invention itself. Something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination." *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

It is respectfully submitted Kozikowski does not provide a suggestion or motivation to combine with Gordin as it is trying to solve the problem of repair of a pole and requires the use of some structural material such as its resin that is hardened at the point of damage to the pole and remedies structural weakness caused by the damage. It does not simply use a thin plastic independent cover over the pole. For these reasons, it is respectfully submitted the claims under this rejection are not obvious as the independent claims, as a combination, are not taught or suggested by the combination of art. The dependent claims are submitted to be non-obvious for the reasons expressed in support of the independent claims.

Claims 20, 22-27, 51, 55-64, 67-81, and 84-89 stand rejected as obvious over Gordin in view of Kozikowski and further in view of U. S. Patent No. 3,968,561 to Oakes ("Oakes"). This rejection is respectfully traversed.

Oakes is cited for rolled edges used as connection between opposite sections of a sleeve. Oakes does not teach applying an independent thin plastic cover over a substantially tall pole. It uses its sleeve as a form for foam to be injected. For the reasons expressed previously, it is respectfully submitted these claims are not obvious in light of the combination of references.

Claims 28-30, 82 and 83 stand rejected on the basis of Gordin, in view of Kozikowski, and further in view of U. S. Patent No. 4,092,079 to Swanson ("Swanson"). Swanson discloses a type of fasteners to secure a sleeve. However, Swanson is teaching a method for repairing just a

portion of a utility pole. It actually teaches creating a joint to fit together sections of the pole. Therefore, it does not teach an independent thin plastic covering over a pole. It is respectfully submitted these claims are not obvious in light of these references.

Claims 65 and 66 stand rejected as obvious over Gordin in view of Kozikowski in view of Oakes and in view of Swanson. These claims are submitted to be non-obvious for the reasons expressed above.

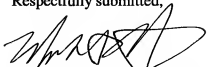
Entry and reconsideration of the application based on the foregoing is respectfully requested.

### **Conclusion**

This amendment accompanies the filing of a Request for Continued Examination (RCE). Please charge Deposit Account No. 26-0084 the amount of \$790.00 for the RCE. Please also consider this a request for a one-month extension of time from January 5, 2007 to February 5, 2007 and charge Deposit Account No. 26-0084 the amount of \$120.00 for this extension. No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and passage to issuance is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark D. Hansing', written over the typed name.

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